



January 24, 2003

MEMORANDUM

To: Justin Smith

From: Shata Stucky

Re: Northern California River Watch v. City of Willits, et al.
Citsuit Consent Decree Review Memo

cc: Polly Milius

Case Summary

Plaintiff River Watch is a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams, and groundwater in Northern California. Defendant City of Willits owns, maintains, and operates wastewater treatment, refuse and disposal facilities that serve the City of Willits and adjacent areas. Plaintiff filed a complaint on February 4, 2002, alleging a failure to comply with NPDES Permit No. CA0023060 and consequent violation of the CWA. Plaintiff claimed, "[Defendant] has chronic pollution problems associated with, among other things, its antiquated collection system, old equipment and an inconsistent maintenance schedule." In the complaint, Plaintiff sought civil penalties, injunctive relief, attorneys fees and costs, and such other relief as is permitted by law. The case has now been settled and a consent decree has been filed in the United States District Court for the Northern District of California. PLSL received a consent decree on December 17, 2002.

Facts of the Consent Decree

Injunctive Relief:

CD requires that Defendant not spray irrigate with treated effluent after the actual onset of significant rainfall between Oct. 1 and May 14, unless Defendant determines that such spray is necessary. If necessary to spray, CD requires Defendant to notify Plaintiff and monitor pH, DO, turbidity, fecal coliform, BOD, and TSS.

Civil Penalty:

CD does not require the Defendants to pay a civil penalty.

SEP:

Defendant will pay not more than \$10,000 to perform an audit of its own procedures for compliance and reporting under its NPDES permit.

Additionally, CD requires Defendant to pay not more than \$6,000 to undertake a creek/sewer line study. If study reveals that there is a local source of fecal coliform to the creek at a location within the collection system, Defendant is required to remedy the situation.

Attorneys' Fees:

Defendant is required to pay Plaintiff the sum of \$40,000.00 for attorneys' fees and costs.

Potential Issues

Ex. 5 - Attorney Work Product

Our comments will be due on January 31, 2003.